

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

FILED
U.S. DISTRICT COURT
2006 APR 27 P 2:56
DISTRICT OF UTAH

CHARLENE HECKERT,

Plaintiff,

vs.

JO ANNE B. BARNHART, Commissioner
of Social Security and RANDALL W.
RICHARDS,

Defendants.

BY: DEPUTY CLERK

ORDER ADOPTING REPORT
AND RECOMMENDATION

Case No. 1:06 CV 16 TC

This case was referred to United States Chief Magistrate Judge Samuel Alba pursuant to 28 U.S.C. § 636(b)(1)(B). Because a jurisdictional issue exists with one of the Plaintiff's claims, Judge Alba issued a report and recommendation on March 31, 2006.

It appears that Plaintiff is attempting to bring two different types of claims in this action. First, Plaintiff is appealing from an administrative decision denying Plaintiff social security benefits. Second, Plaintiff is bringing an action against Randall W. Richards, the attorney who represented her during the social security administrative proceedings below. The second claim against her former attorney is a state claim. The court may not exercise supplemental jurisdiction over it because it is not part of the same case or controversy as Plaintiff's first claim. See 28 U.S.C. § 1376(a). For this reason, Judge Alba recommended dismissal of Plaintiff's claim

against Randall W. Richards making it clear that dismissal of Plaintiff's second claim did not result in dismissal of Plaintiff's first claim.

The parties were given ten days from the date of the issuance of the R&R to file objections, and were cautioned that failure to file an objection could constitute a waiver of those objections on subsequent appellate review. Neither party filed an objection to the R&R.

The court finds that Judge Alba's R&R is correct in all material respects. Accordingly, the R&R is adopted as the order of this court. Plaintiff's claim against Defendant Randall W. Richards is DISMISSED.

DATED this 27 day of April, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Tena Campbell", is written over the printed name.

TENA CAMPBELL
United States District Judge